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ABSTRACT

This report provides board policy samples and other policy resources on student rights and responsibilities. The intent in providing policy samples is to encourage thinking in policy terms and to provide working papers that can be edited, modified, or adapted to meet local requirements. Topics covered in the samples include (1) freedom of expression; (2) student involvement in decision making; (3) due process rights; (4) interrogations and searches by school officials and/or police; (5) student complaints, grievances, and hearing procedures; and (6) student demonstrations and strikes. (Author/JF)

ED 073549

SCHOOL BOARD POLICIES on STUDENT RIGHTS

#73-1

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. . . a school board policy development kit
prepared by the Educational Policies Service
of the NATIONAL SCHOOL BOARDS ASSOCIATION

A WORD ABOUT THIS PUBLICATION

This is one of a continuing series of kit-booklets issued to help school boards develop written policies in key subject areas. All policy samples and other policy resources reproduced herein have been selected from the files of the Policy Information Clearinghouse of the National School Boards Association's Educational Policies Service (EPS/NSBA) and coded to the EPS/NSBA policy codification system.

The intent in providing policy samples is to encourage thinking in policy terms; to provide "something to start with"--working papers to be edited, modified, or adapted to meet local requirements. Administrators of EPS/NSBA member organizations should file this booklet for continuing reference in their master copy of the Educational Policies Reference Manual.

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EPS File: JC--Student Rights and Responsibilities

SCHOOL BOARD POLICIES ON STUDENT RIGHTS

No. 73-1 January, 1973

Editor's Note: This kit is a completely revised version of "Policies That Clarify Student Rights & Responsibilities" (#70-50), produced in 1970 and now out-of-print.

One of the key policies on student rights and responsibilities has been around since 1791. It's the Bill of Rights. Among other things, it provides for freedom of speech, for due process, and for freedom from unreasonable search and seizure--for everyone, including students.

Recent court decisions have focused on specific issues of student rights including length of hair and the use of certain language in student publications, and have dramatically reinforced the concepts of individual rights guaranteed by the Bill of Rights. For those unfortunate board members and school officials who've wound up in court defending policies that were indefensible, the lesson in basic constitutional rights has often been unpleasant and expensive.

Policies that reflect awareness of what the courts have said about student rights can save a lot of grief. On the other hand, if policies are still in effect which violate the basic freedoms guaranteed to students by the constitution, you or your board may face a legal tussel in a suit brought by a student or on behalf of a student.

Many policies on student rights and responsibilities have been apparently designed to restrain students from activity thought to be disruptive or distasteful. But the Bill of Rights was specifically written to guarantee that the prevailing opinions or attitudes of the majority wouldn't smother alternate, and frequently unpopular, opinions or attitudes of other individuals. It protects the minority point of view, even though the will of the majority continues to underlie the American political philosophy and reality.

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TO ERIC AND ORGANIZATIONS OPERATING

Does this mean that the school board must lie down and roll over in the face of any challenge to its authority? Does it mean that the board is no longer responsible for the maintenance of good order in the schools or for the control of student conduct? Not at all. But it does mean that policies your board develops must be exemplars of "law and order." That is, they must be constitutionally correct.

The recent tendancy for students and parents to "take it to court" has thrown the spotlight on abundant examples of educational policies that don't take into account that simple fact. Schools have lost decisions concerning the length of hair, the admission to class of a student who bore a child out of wedlock, and the expulsion of a student who sought to publish an article containing the same words prominently displayed on a sign in the office of the athletic coaches.

But the painful legal skirmishes continue, even though they are fought over basic principles set out over 180 years ago. If schools are to function as the learning centers for citizens in an effective democratic society, educational policies themselves should reflect the rights and responsibilities of all, as set out by the Constitution and, particularly, the Bill of Rights.

Let's take a look at some of the complexities of student rights and responsibilities and at what your board can do to develop policies that can withstand a challenge on constitutional grounds--if they have to.

Changing times and changing roles

Historically, school board members and school personnel concentrated on providing students with a carefully regulated educational environment that met the basic needs of health and safety. They seldom gave any thought to winding up in court because of an alleged violation of a student's rights. Underlying this attitude was the doctrine of in loco parentis--"in the place of a parent." This doctrine, going back to the Code of Hammurabi in the 18th Century B.C., set the standard until very recently for school policies and action to control student activity.

One doesn't have to go back too far in history to recall times when we could assume that the goals of education and the goals of child-raising were similar, if not identical. Administrators and teachers could act as parent and be very comfortable in the role. Students were typically considered passive rather than active participants in the educational and child-raising process. Mostly, they were to do what they were told to do.

Needless to say, times have changed. Dramatic events of civil disobedience have helped minority groups achieve more nearly equal rights. Women have actively sought social and economic equality, frequently through disruptive confrontation. Teacher militancy for higher pay and more power in school affairs has been a reality for much of the last decade, along with years of protest, some of it violent, against the war in Vietnam. Individuals and groups of all kinds actively sought more of a voice in their own destiny. People discovered that confrontation worked. As a result, schools themselves became mirrors of society's larger battleground.

U.S. Supreme Court rulings in Gault (1967) and Tinker (1969) dealt nearly fatal blows to in loco parentis, declaring that constitutional rights are guaranteed to each individual, regardless of age. The students in the Tinker case wore their armbands with parental consent, so the line was clearly drawn with parents and students on one side and the school officials on the other. It was a unique and not altogether pleasant experience for school officials, but it was an instructive one.

The officials who barred students from school because they wore armbands did so because they apparently feared that the armbands would lead to disruption of normal school activities. Even though no such disruption occurred, the Court opinion written by Justice Fortas observed that even the fear or apprehension of disturbance isn't enough to deny the right to freedom of expression in our society. Thus, this decision clarifies the students' rights. But it also summarizes students' responsibilities. The Fortas opinion made it clear that student conduct in class or out of it which materially disrupts class work or involves substantial disorder or invasion of the rights of others isn't immunized by the constitutional guarantee of freedom of speech.

In summary, the historic Tinker decision clarified student opportunities to become more active participants in the social, political, and educational systems. But this opportunity was clearly stated both in terms of rights and responsibilities.

What role do students want?

A conspicuous advocate of student rights is, of course, the American Civil Liberties Union and its state chapters. ACLU, which calls the increasing awareness of rights in the schools "one of the most encouraging civil liberties developments in recent years," has identified a pattern in student activity. The first skirmishes are fought over regulations on hair length and on attire. Issues concerning free speech follow, and emphasis on due process usually comes next. Finally, come issues of student power. These have covered such diverse matters as scheduling of sports and social events; race relations; quality of teachers and curriculum; selection of principals; black history and ethnic courses; liberalizing study hall procedures; the open campus; cheerleader elections; condition of school plants; etc. Clearly, students have rapidly come a long way from being passive recipients of education.

Students, parents, and the ACLU aren't alone in pushing for a greater role for students. The Education Task Force of the 1971 White House Conference on Youth, for example, pointed out that America's democratic system is based on the belief that all citizens should have a voice in deciding how the system is to be run. The Task Force went on to recommend that students have a voice in policy and governance of their educational system and urged educational institutions to construct codes of student rights and responsibilities. These codes should clearly define the legal and social relationships of the institution to the student and vice versa, in such areas as speech, demonstrations, dress code, class attendance, etc. That "etc." is already a big list and still growing.

Policies that are broad and protective

The law of the land guarantees rights to all, and many educators have recognized that both benefits and problems accrue from greater student participation in the educational process. But how can school boards develop policies that permit full growth of student rights without incurring the liabilities of rampant permissiveness? We can start to answer that question by turning to the law for guidance.

Laws underlie the power of school boards in all states to regulate and control student conduct. Particular care has to be taken in the sensitive and emotional area of student rights so that board policies and administrative rules don't conflict with the constitutional rights of anyone.

It's impossible for school boards and other authorities to establish policies to cover all situations. However, broad policy positions can be established which will assure that issues involving student rights will be resolved in a manner that is consistent with a higher legal authority.

It's interesting to note that in recent court decisions, the issues of policies and rules and the penalties for breaking them have been overshadowed by concern for due process. And special attention must be made to this Bill of Rights guarantee.

There are two kinds of due process.

Procedural due process assures that a person's rights are protected whenever an official exercises governmental power in a matter involving private interests. For example, police and school officials may well be operating on shaky ground if they break open a student's locker without concern for procedural due process.

Substantive due process suggests that school officials establish only policies and rules which serve the purpose for which the school was established, that is to educate. Policies should proscribe only behavior that could reasonably be considered "substantially disruptive" to the educational goals of the school.

It's worth emphasizing that the courts have consistently recognized the need to maintain a suitable educational atmosphere in the schools, so any activity that disrupts this atmosphere "materially" can be considered punishable. But the individual or group who is disruptive must nevertheless have their rights protected by procedural due process.

The test of "reasonableness"

Because the law presumes that school officials will properly exercise their authority, the burden of proof that this authority has been misused rests with students or those representing the students. For example, it was up to the parents of the Tinker children to accept this burden.

This arrangement doesn't give school authorities as free a hand as it might seem. The closer a policy or rule comes to affecting a fundamental consti-

tutional right, the more school authorities have to demonstrate the need for it to maintain a suitable educational atmosphere.

Whether or not a rule stands up under this scrutiny depends on yet another variable measure. If the rule or policy is judged to be reasonable in any particular application to student activity, then it may well survive. But if it appears unreasonable, that is if men of normal experience and intelligence don't accept it as rational and appropriate, then it probably won't survive.

Don't be surprised if the legal guidelines are vague. No one can really tell how any given court will rule on whether or not a particular story in a student publication is "substantially disruptive" or whether school officials followed due process when the publication is confiscated and the editor punished. Each suit is decided on its own--often through appeals.

Before you despair of ever being certain how solid your policies might be in the face of a constitutional challenge, here's a three point checklist that will simplify your evaluation. A policy or rule could reasonably be attacked if (1) the policy's domain isn't a proper one for regulation by school authorities; (2) it violates the federal or state Constitution or a law; (3) it's unreasonable in the sense discussed above.

These three conditions should be considered when evaluating existing policies or developing new ones. Naturally, it's also wise to compare your policies to those struck down or supported in similar situations, and to seek legal counsel before there's an opportunity for the policy to be tested in the courts.

Needed: A fundamental philosophy

How to begin? Begin, if your board hasn't done so already, with the development of a fundamental philosophy about student rights and responsibilities in general. Such a policy should specify both the rights that the board concedes to all students at all times under all circumstances and the rights the board reserves to itself and/or its administrators.

The ACLU recommends that such a general statement on student rights be based on three premises:

1. A recognition that freedom implies the right to make mistakes, and that students must therefore sometimes be permitted to act in ways that are predictably unwise so long as the results of the acts aren't dangerous and don't seriously disrupt the academic process.
2. A recognition that students in their schools should have the right to live under the principle of "rule by law" rather than "rule by person."
3. A recognition that deviation from the opinions and standards deemed desirable by the faculty isn't ipso facto a danger to the learning process.

The draft policy should be carefully read by each board member; by school administrators; checked against statements by other boards; and, finally,

by legal counsel. Once such a general statement of philosophy is adopted it becomes less difficult to deal with specific issues that will inevitably arise. The setting of a general policy can also obviate the need for a host of nit-picking rules drafted to cover each and every crisis as it crops up. Problems of student pressure quickly come into style and then evaporate. Resolving each new issue with a hastily-written edict is often less effective than evaluating each new issue in terms of the general, long-standing policy spelling out broad rights and responsibilities.

Finally, this word. A school board's basic position on student rights will be a clear reflection of its faith both in democratic principles and in the powers of the educative process. "I know no safe depository of the ultimate powers of the society but the people themselves," said Thomas Jefferson. "And if we think them not enlightened enough to exercise their control with a wholesome discretion, the remedy is not to take it from them, but to inform their discretion by education."

We wish you well in your deliberations.

--Bruce Kezer
Special Assignment Writer, EPS/NSBA

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EPS/NSBA File: JC-E

STUDENT RIGHTS AND RESPONSIBILITIES
(NSBA Resolution)

The National School Boards Association urges that all local school boards, after involving students, staff, and community, and in accord with recent court decisions, establish written policies on student rights and responsibilities. The Association further urges that all local school boards establish due process procedures for the administration of these policies in order that the rights of students and others be protected.

SOURCE: Resolution 34 of the Delegate Assembly of the National School Boards Association
DATE: 4/72

STUDENT RIGHTS AND RESPONSIBILITIES
(AASA and NEA Resolutions)

The nation's tensions are reflected in our schools and among our students. As school administrators, we cannot coutenance physical or psychological intimidation or disruption of the learning process. At the same time, we recognize that there are different kinds of learning. Our rejection of actual violence must not lead us to reject our students, their rightful concerns, or nonviolent means of expressing those concerns. Students speak to us--sometimes abrasively--of society's failure to resolve pressing social problems.

The AASA calls on all administrators to react with firmness, enlightenment, and justice to potential or actual disruptions. Firmness is necessary in insisting on the protection of the integrity of the schools and the rights of all who are affected. Enlightenment is required to acknowledge that the concerns and needs young people articulate reflect the needs of the society. Justice must be accorded students consonant with their share in the rights the Constitution guarantees all citizens.

We urge all administrators to provide instructional programs appropriate to the needs of each student, developed by a process which gives students a share in making the actual decisions. We believe such programs are the schools' most appropriate response to the pervasive possibility of disruption.

SOURCE: Resolution 31 of the American Association of School Administrators
DATE: 2/72

* * * * *

The National Education Association believes that basic student rights include:

--the right to free inquiry and expression
--the right to due process
--the right to freedom of association
--the right to freedom of peaceful assembly and petition
--the right to participate in the governance of the school, college, or university
--the right to freedom from discrimination
--the right to equal educational opportunity

SOURCE: Resolution 72-8 of the National Education Association
DATE: 6/72

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EPS/NSBA File: JC

STUDENT RIGHTS AND RESPONSIBILITIES

The privileges and rights of all students shall be guaranteed without regard to race, religion, sex, creed, or national origin.

Students shall have the right to advocate change of any law, policy, or regulation. Students may exercise their right to freedom of expression through speech, assembly, petition, and other lawful means, The exercise of this right may not interfere with the rights of others. Freedom of expression may not be utilized to present material which tends to be obscene or slanderous, or to defame character, or to advocate violation of federal, state, and local laws, or official school policies, rules, and regulations.

Students may present complaints to teachers or administration officials. Adequate opportunities shall be provided for students to exercise this right through channels established for considering such complaints.

SOURCE: Fairfax County Public Schools, Fairfax, Va. (abridged)
DATE: 7/15/71

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STUDENT RIGHTS AND RESPONSIBILITIES

Preamble

The Board approves the following policy developed with the advice and consent of its administrators. The following statement in no way diminishes the legal authority of school officials or the Board to deal with disruptive students. It applies to all schools. It recognizes and extends the range of the student's responsibility.

One of the major goals of this statement is to establish a new trust, one based on the humane values of self respect and respect for others. No student has the right to interfere with the education of his fellow students. If dialogue is interrupted or destroyed, then the bonds that hold us together are broken. It is thus the responsibility of each student to respect the rights of all who are involved in the educational process.

I. Freedom of Expression

It is clearly the intention of the Board to promote the dissemination of diverse viewpoints and to foster discussion of all political and social issues.

A. Official school publications shall reflect the policy and judgment of the student editors. This entails the obligation to be governed by the standards of responsible journalism, such as avoidance of libel, obscenity, and defamation. Student publications shall provide as much opportunity as possible for the sincere expression of all shades of student opinion.

B. Students may exercise their constitutionally protected rights of free speech and assembly so long as they do not interfere with the operations of the regular school program.

   1. Students have a right to wear political buttons, armbands, and other badges of symbolic expression, as long as these do not violate the limits set in this policy.
   2. Students may distribute literature on school property at specified locations and times designated.
   3. No commercial or obscene material, nothing of a libelous nature or involving the defamation of character, nor anything advocating racial or religious prejudice will be permitted to be distributed within the school.
   4. Any literature distributed within the school must bear identification as to its source.
   5. Students may form political and social organizations including those that champion unpopular causes. These organizations must be open to all students and shall have reasonable access to school facilities.

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C. Students have the right to determine their own dress. They have the responsibility for coming to school neat and clean and are expected to display good taste in their manner of dress.

D. Annually upon the opening of school, students shall be informed as to the rules and regulations to which they are subject. The information shall include a statement of the rights and responsibilities of students.

II. Faculty Advisors

Faculty advisors to student activity groups shall be appointed by the principal after consultation with the student group and the prospective advisor.

III. Advisory Committee

The Board hereby authorizes the establishment of an advisory committee to foster greater understanding of school administration, to make recommendations for the improvement of school services, and to recommend to the Board guidelines for the implementation of this policy. The extent and definition of student rights and responsibilities are subject to discussion by this committee. The committee shall consist of representatives of the student body, faculty, administrators, and parents. The committee shall meet periodically to discuss matters of school wide concern submitted by students and/or staff and shall confer on a continuing basis with the principal to promote implementation of agreed upon changes. The structure and operating procedures of the committee shall be on file with the superintendent.

IV. Appeals

Appeals from decisions of the principal made pursuant to this policy must first be lodged with the superintendent and finally the Board. All such appeals shall be decided as quickly as possible.

SOURCE: Branford Public Schools, Branford, Conn.
DATE: 9/23/71

STUDENT RIGHTS AND RESPONSIBILITIES

A. Statement of Intent

The process of educating students for responsible citizenship in a democratic society requires reasonable opportunity for them to exercise the rights of freedom of speech and expression in the context of the public school environment. The purpose of this policy is to insure the exercise of these rights with due regard to the rights of others and the need for reasonable restrictions in the operation of the public school system. In order to provide this experience for students within the framework of Education Code Section 10611, the Board establishes the following policies, to be supplemented by administrative rules and regulations as reasonably required.

B. Right to Exercise Free Expression

Students of the district have the right to exercise free expression including, but not limited to, the use of bulletin boards, the distribution of printed materials or petitions, and the wearing of buttons, badges, and other insignia.

1. Circulation of petitions, circulars, newspapers, and other printed matter. Students shall be allowed to distribute petitions, circulars, leaflets, newspapers, and other printed matter subject to the following specific limitations:

   a. Time. The time of distribution shall not be limited except when such restrictions are deemed necessary to prevent interference with individual class programs.
   b. Manner. The manner of distribution shall be such that:

      --Coercion is not used to induce students to accept printed matter or to sign petitions.
      --Funds or donations are not collected for the material distributed.
      --Leaflets and printed material to be distributed shall be submitted to the designated school official at least 12 hours prior to such distribution. Approval or disapproval of such distribution shall be indicated within six hours or by the same time the next school day. The official may limit the number of students or groups of students who may distribute materials in any one day.
      --Materials are not left undistributed or stacked for pickup while unattended at any place in the school or on school grounds.
      --The distributor must be a student of the school involved and a non-student must have the principal's permission.
      --Student distributors have the responsibility of cleaning up any littering of said materials that may result.
      --The distribution of materials shall not hinder the normal flow of traffic within the school.

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2. Buttons, badges, and other insignia of symbolic expression. Students shall be permitted to wear buttons, badges, armbands, and other insignia as a form of expression subject to the hereinafter mentioned prohibitions.

3. Bulletin boards. Students shall be provided with ample bulletin board space for the use in posting student materials on campus locations convenient to student use. The location and numbers of such bulletin boards shall be by joint agreement of local student government representatives and the local school administration.

4. Outside speakers, films, open mikes, and other media. Students shall be allowed to present outside speakers, films, and other media to students with approval of the principal or his designee.

   a. It is the responsibility of the principal or designated official to inform the speaker and students of the rules (q.v.) which govern speakers.
   b. If a speaker openly violates these rules, the program will be stopped and the speaker reminded of these regulations. If violations continue the speaker will be requested to leave.
   c. An open mike may be made available to students, faculty, or nonstudents with the principal's permission. He will provide a location which will accommodate those interested, which will not interfere with other campus activities, and where the speaker may exercise freedom of expression without interference. The rules governing outside speakers (q.v.) apply to all users of the open mike.
   d. Any section of the campus which can be used at all times without disruption of the main body of students and which is available to students during nonacademic periods shall be available for a peaceful assembly of students, for the purpose of voicing opinions.

5. School newspapers. The content of official school newspapers and yearbooks shall be subject to the restrictions (as stated in section C) and rights contained in the policy.

C. Limitations on Right to Exercise Free Expression

In the exercise of the student rights described above, no person shall speak or distribute materials, wear buttons, or make other displays or post notices or other materials which are obscene according to current legal definitions; are libelous or slanderous according to current legal definitions; incite students so as to create a clear and present danger of the imminent commission of unlawful acts on school premises or of the violation of lawful school regulations or of the substantial disruption of the orderly operation of the school; or express or advocate racial, ethnic, or religious prejudice so as to create a clear and present danger of imminent commission of unlawful acts on school premises or the violation of lawful school regulations or of the substantial disruption of the orderly operation of the school.

D. Designation of Administrator to Enforce Policy

The principal of each school shall designate a person (principal, vice prin-

cipal, or other administrator) to review material and exercise administrative responsibilities as required by this policy. The name of the designated person shall be suitably posted.

E. Effects of Student Violation of Policy

Violation of this policy by any student is sufficient cause for disciplinary action to be taken. Copies of this policy shall be made available to interested students and its contents made known to students involved in activities covered in this policy.

F. Channels of Student Appeal

Any student who, after going through the normal channels of appeal, still feels his rights given to him under this policy have been infringed upon, should appeal to the Student Advisory Council. From there, the final decision rests with the Board of Trustees.

SOURCE: Sequoia Union High School District, Redwood City, Calif.
DATE: 4/19/72

LEGAL REF.: California Education Code Section 10611

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STUDENT INVOLVEMENT IN DECISIONMAKING

Students should have a voice in the formulation of school policies and decisions which affect their education and lives as students. Through such participation, students can be a powerful resource for the improvement of the school, the educational system, and the community.

Students also have responsibilities. These responsibilities include regular school attendance, conscientious effort in classroom work, and obedience to school rules and regulations. Most of all they share with the administration and faculty the responsibility of developing a climate in the school that is conducive to wholesome learning and living.

School policies, rules, and regulations affecting pupils should be reviewed periodically by students, faculty, and administration.

SOURCE: Dayton Public Schools, Dayton, Ohio
DATE: 9/70

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EPS/NSBA File: JCAA

STUDENT DUE PROCESS RIGHTS

The constitutional rights of individuals assure the protection of due process of law. Therefore, a system of constitutionally and legally sound procedures will be developed with regard to the administration of discipline in the Seattle Public Schools.

SOURCE: Seattle School District #1, Seattle, Wash.
(Derived from JCAA-R)
DATE: 8/12/70

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STUDENT DUE PROCESS RIGHTS

The constitutional rights of individuals assure the protection of due process of law; therefore, this system of constitutionally and legally sound procedures is developed with regard to the administration of discipline in the Seattle Public Schools:

1. The hallmark of the exercise of disciplinary authority will be fairness.

2. Every effort shall be made by administrators and faculty members to resolve problems through effective utilization of school district resources in cooperation with the student and his parent or guardian.

3. A student must be given an opportunity for a hearing if he or his parent or guardian indicates the desire for one. A hearing shall be held to allow the student and his parent or guardian to contest the facts which may lead to disciplinary action, or to contest the appropriateness of the sanction imposed by a disciplinary authority, or if the student and his parent or guardian allege prejudice or unfairness on the part of the school district official responsible for the discipline.

4. The hearing authority may request the student and parent or guardian to attempt conciliation first, but if the student and parent or guardian decline this request the hearing authority shall schedule the hearing as soon as possible.

5. The following procedural guidelines will govern the hearing:

   a. Written notice of charges against a student shall be supplied to the student and his parent or guardian.
   b. Parent or guardian shall be present at the hearing.
   c. The student, parent or guardian may be represented by legal counsel.
   d. The student shall be given an opportunity to give his version of the facts and their implications. He should be allowed to offer the testimony of other witnesses and other evidence.
   e. The student shall be allowed to observe all evidence offered against him. In addition he shall be allowed to question any witness.
   f. The hearing shall be conducted by an impartial hearing authority who shall make his determination solely upon the evidence presented at the hearing.
   g. A record shall be kept of the hearing.
   h. The hearing authority shall state within a reasonable time after the hearing his findings as to whether or not the student charged is guilty of the conduct charged and his decision, if any, as to disciplinary action.

Administrative Rules Samples (yellow sheets) are distributed by EPS/NSBA for demonstration purposes and do not necessarily reflect official viewpoints of the National School Boards Association unless so noted above. Editing from originals has been for reasons of space, style, or coding requirements only.

i. The findings of the hearing authority shall be reduced to writing and sent to the student and his parent or guardian.
j. The student and his parent or guardian shall be made aware of their right to appeal the decision of the hearing authority to the appropriate appellate authority.

SOURCE: Seattle School District #1, Seattle, Wash.
DATE: 8/12/70

EPS/NSBA File: JCAB

INTERROGATIONS AND SEARCHES BY SCHOOL OFFICIALS

Desks and lockers are public property and school authorities may make reasonable regulations regarding their use. Students, however, have the right to privacy in their lockers and desks consistent with the rules which have been established. No school official shall inspect these unless there is a reasonable cause to believe that prohibited articles are kept there. If an inspection takes place, the student or a third party shall be present.

A student has the right to decorate the inside of his locker unless, in the judgment of the principal, such decoration is considered obscene, illegal, or offensive to race, religion, or national origin or is damaging to the locker.

SOURCE: Greendale Public Schools, Greendale, Wisc.
DATE: 5/70

* * * * *

Lockers remain the property of the school and are provided to students without charge. The rights of personal property, however, as well as the rights of the school, must be afforded consideration. The school principal or other faculty member designated is authorized to open lockers and to examine their contents including personal belongings of students only when such person has reasonable cause to believe that the contents threaten the safety, health, or welfare of students, or include stolen property.

Reasonable efforts to locate the student shall be made prior to opening his locker. If the student is present, the school official shall advise him of the circumstances justifying the search and seizure of the objects which the official believes the search may disclose. If the student is not present, he shall be informed of the search. Stolen items and items which are specifically prohibited by law, Board policy, or county or school regulations may be impounded. The student shall be given a receipt for any items impounded by school authorities and parents shall be notified of any items impounded.

SOURCE: Fairfax County Public Schools, Fairfax, Va.
DATE: 7/15/71

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EPS/NSBA File: LDAJA

POLICE INTERROGATIONS AND INVESTIGATIONS

It is the policy of the schools to cooperate with law enforcement agencies in the interest of the larger welfare of all citizens. At the same time, schools have the responsibility to parents for the welfare of the students while they are in the care of the school. To carry out this responsibility school officials should observe the following:

1. A student in school may not be interrogated by any authority without the knowledge of the school official.

2. Any interrogation must be done in private with an official school representative present.

3. A student may not be released to the custody of persons other than parent or legal guardian, unless placed under arrest by legal authority.

4. If a student is removed from the school by legal authority, parents should be notified of this action by school officials as soon as possible.

SOURCE: Dayton Public Schools, Dayton, Ohio
DATE: 9/70

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EPS/NSBA File: JCE

STUDENT COMPLAINTS AND GRIEVANCES

The specific procedures of the Somerset County Vocational and Technical Schools for dealing with student grievances shall be based on the following general policies:

1. We shall continue to develop and maintain close student-teacher relationships as a deterrent to possible grievances and feelings of dissatisfaction.

2. We shall continue to present our students with means of self-expression in their shops or laboratory projects and experiments so that each student may progress to the limits of his ability.

3. Grievances which develop beyond the relative closeness of student and teacher will be discussed and given proper consideration through the usual chain of authority and counsel; i.e., teacher, guidance counselor, student council, local supervisor, local superintendent, local Board, county superintendent, and state commissioner of education.

4. Parents will be granted the identical chain of authority and counsel.

SOURCE: Somerset County Vocational and Technical Schools, Somerville, N.J.
DATE: 4/22/69

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EPS/NSBA File: JCEA

OMBUDSMAN

In order to assure that each student is informed concerning his rights and responsibilities there may be established at the discretion of the student government in each high school the position of ombudsman. Ombudsmen shall be elected by or composed of members of the student government or elected by the student body at large. The number of ombudsmen needed in any school shall be determined by the student government in consultation with the principal. Ombudsmen shall serve voluntarily and without compensation and may be qualified students of that school, parents, teachers, counselors, or responsible qualified citizens of the community at large.

It shall be the responsibility of the superintendent to provide the necessary training of ombudsmen prior to their taking office and to establish a procedure for declaring an individual unqualified or unfit to serve as an ombudsman.

In no case shall an ombudsman supersede the right or obligation of a parent to counsel, protect, or represent his/her son or daughter.

SOURCE: School District of Philadelphia, Pa.
DATE: 12/21/70

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EPS/NSBA File: JCEB

STUDENT COMPLAINTS AND GRIEVANCES
HEARING PROCEDURE

Each school shall establish procedures for the consideration of student problems and for the processing of student complaints and appeals. These procedures should be developed through the cooperative efforts of students, faculty, and administrators. The superintendent shall establish and maintain procedures for appeals beyond the decision of the principal. Details of these procedures should be made known to students and staff, and students who wish to use them should be assured of access to the appropriate personnel within a reasonable period of time.

SOURCE: Montgomery County Public Schools, Rockville, Md.
DATE: 8/8/72

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STUDENT COMPLAINTS AND GRIEVANCES
HEARING PROCEDURE

A. Rights of a Student

Nothing in these procedures shall be construed as limiting the rights of any student having a complaint to discuss the matter with an appropriate school administrator. No reprisals of any kind shall be taken by anyone against any student as a result of a complaint or appeal.

B. Local School Level

In implementing the policy statement at the local school level, the principal is responsible for:

1. Ensuring that procedures for considering student problems and processing complaints and appeals are cooperatively developed by students, faculty, and school administrators.

2. Determining that the procedures are precise and clearly stated and make provision for (a) guaranteeing each student due process; (b) submitting, in writing, an appeal and the explanation of issues involved to the appropriate individual or office; and (c) requiring that all parties involved be notified, in writing, of the decision within ten school days of the date the appeal is received.

3. Forwarding an information copy of the procedures to the appropriate area assistant superintendent and the associate superintendent for administration.

4. Distributing the procedures (local school level and beyond the local school level) to each student.

5. Planning with the faculty, school administrators, and student council representatives orientation and discussion meetings to assure that each student has been informed of the appeal procedures at the local school level and beyond the local school.

6. Requiring an annual review and revision, if appropriate, of the procedures at the local school level.

C. Appeal of the Decision of the Principal

If a student has attempted, without success, to have a problem resolved at the local school level and is not satisfied with the decision rendered, he may appeal the decision to the appropriate area assistant superintendent and the following steps are carried out:

Administrative Rules Samples (yellow sheets) are distributed by EPS/NSBA for demonstration purposes and do not necessarily reflect official viewpoints of the National School Boards Association unless so noted above. Editing from originals has been for reasons of space, style, or coding requirements only.

1. Submitting an Appeal

Within ten school days of the decision of the principal, the student requests, in writing, a review of the complaint and appeals the decision to the responsible area assistant superintendent. The statement should include (a) all pertinent factual information; (b) the remedy requested; and (c) a request for a review of the complaint and the decision of the principal or an informal hearing before the area assistant superintendent.

2. Review of an Appeal

Upon receipt of a request for a review of a decision rendered by the principal, the area assistant superintendent acknowledges receipt of the request. The area assistant superintendent makes a decision based on the information submitted by the student and any additional information he has obtained, or he may establish a five-member board as follows:

(a) The board should be comprised of two students, two teachers, and one administrator selected at random from an area pool by the teacher specialist for student affairs.
(b) The five-member board meets within five school days of the date the board is established to review all information and submit recommendations to the area assistant superintendent for consideration.
(c) The area assistant superintendent makes a decision based on the recommendations of the board, the information submitted by the student, and any additional information he has obtained.

Within ten school days of the date the appeal is received, the area assistant superintendent notifies the student and principal, in writing, of the decision concerning the appeal.

3. Informal Hearing Before the Area Assistant Superintendent

Upon receipt of a request for a hearing, the area assistant superintendent (a) acknowledges receipt of the request; (b) sets the date for an informal hearing which must be held within ten school days from the date the request is received; (c) informs all individuals concerned, in writing, of the time, date, and place of the hearing; and (d) ntoifies the student of his right to present information, evidence, and witnesses.

The area assistant superintendent is responsible for conducting the hearing, questioning parties to the informal hearing, and providing an opportunity for the student to question parties to the hearing.

Within five school days after the informal hearing, the area assistant superintendent reviews all data and information presented at the hearing, renders a decision, and notifies the student and principal, in writing, of the decision and the student's right of appealing the decision.

4. Review by the Superintendent or Designee

The student may appeal the decision of the area assistant superintendent. The appeal must be submitted to the superintendent within ten school days of the receipt of the notification of the decision of the area assistant superintendent and include information to justify the appeal. The superintendent or designee (deputy superintendent or associate superintendent for administration) reviews the issue and related information. Within five school days of receipt of the appeal, the superintendent or designee renders a decision and notifies the student, principal, and area assistant superintendent in writing.

SOURCE: Montgomery County Public Schools, Rockville, Md.
DATE: 8/8/72

STUDENT COMPLAINTS AND GRIEVANCES
HEARING PROCEDURE
(Kansas Recommendations)

Due Process Guaranteed

Any administrative hearing concerning the suspension or expulsion of students should be conducted in accordance with school board policies which incorporate the following procedural process:

1. The right of the student to have counsel of his own choice present and to receive the advice of such counsel or other person whom he may select.
2. The right of the student's parents or guardians to be present at the hearing.
3. The right of the student and his counsel or advisor to hear or read a full report of testimony of witnesses against him.
4. The right of the student to present his own witnesses in person or their testimony by affidavit.
5. The right of the student to testify in his own behalf and give reasons for his conduct.
6. The right of the student to have an orderly hearing.
7. The right of the student to a fair and impartial decision based on substantial evidence.

Procedural Steps

The chairman of the administrative hearing should forthwith explain the rules by which the hearing will be conducted. These rules should be in writing and should be handed out to each person present at the hearing. The hearing rules should include the following items:

1. An announcement of the purpose of the hearing.
2. A determination as to whether the student wishes a closed or open hearing.
3. A notation of those present at the hearing in the formal record.
4. A review of the procedural due process as outlined above.
5. A review of the recommendations for an administrative hearing.
6. A review of the procedural steps pertaining to how those persons conducting the hearing will dispose of the findings presented at the hearing.
7. A review of the guidelines pertaining to cross-examination of witnesses.
8. A statement of the adjournment time.
9. A reminder to those present that the law guarantees an orderly hearing and that disturbances will not be tolerated.
10. An announcement that discussion of relevant data and testimony will be guaranteed.
11. An explanation that examination of witnesses called by either party will be conducted in private if the meeting is closed.
12. An outline of the order for presentation of evidence: the school district will present its evidence first, followed by the student and his counsel.

SOURCE: Kansas Association of School Boards (abridged)
DATE: 1971

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STUDENT COMPLAINTS AND GRIEVANCES
HEARING PROCEDURE
(Notice to Parents of Hearing or Proposed Disciplinary Action)

SECTION I--NOTICE

A. Hearing. You are hereby notified that on [day/month/year] at [time] in Room ____ [building/school] a hearing will be held for the purpose of inquiring into and considering the matter referred to in Section II concerning your [son/daughter/ward], [name of student].

B. Disciplinary Action. Based upon the matter referred to in Section II, it may be necessary to take the following action with respect to your [son/daughter/ward].

_____
(Describe proposed action)

_____

_____

C. Purpose of Hearing. The purpose of the hearing will be to give your [son/daughter/ward] an opportunity to hear the charges against [him/her], to present evidence and/or materials in [his/her] behalf, and to bring to bear on the factual issues or on the possible disciplinary action such other factors as [he/she] or [his/her] representative feels are important. In other words, [he/she] will be given the opportunity to "give [his/her] side of the story."

SECTION II--STATEMENT OF REASONS FOR DISCIPLINARY ACTION

_____

_____

_____

_____

_____

_____

_____

_____

_____

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SECTION III--WHO MAY ATTEND

I ask that you accompany your [son/daughter/ward] to the hearing. In addition you may bring with [him/her] a representative of [his/her] choice. If you should want a particular teacher, student, or other person present at the hearing, or available, you should contact me promptly so that I can make appropriate arrangements.

SECTION IV--WHO ELSE WILL BE THERE AND HOW THE HEARING WILL BE CONDUCTED

The hearing will be informal. This is not going to be a trial and we will not be in a courtroom. I will preside at the hearing and will begin by presenting the reasons why the proposed disciplinary action is being suggested. At present, it is our intention to have [names and titles] present or available at the hearing. You, your [son/daughter/ward], or [his/her] representative may ask questions of those present and you may then present your own evidence. It is our every intention to see that a fair and impartial hearing is held. If, for some reason, the date or time of the hearing will reasonably cause undue hardship you should contact me immediately so that a new date or time can be scheduled. If I do not hear from you and nobody appears at the hearing in your [son's/daughter's/ward's] behalf, the hearing will be held in [his/her] absence.

If you have any questions, please call me at _____.

Sincerely,

_____
Principal

_____
School

SOURCE: Fort Wayne Community Schools, Fort Wayne, Ind.
DATE: 4/1/70

EPS/NSBA File: JCEC

STUDENT DEMONSTRATIONS AND STRIKES

The procedures for the prevention and handling of student u[illegible] shall be based on the following premises:

1. The district will implement an educational philosophy which is student oriented and concerned with each student as an individual and which builds mutual respect between students and staff.

2. Each student has a right to attend the public schools and to receive a suitable education without disruption.

3. Neither violence, disruption, vandalism, nor seizure of school buildings can be permitted under any circumstances.

4. Procedures by which both students and parents may make known their concerns and have them considered and disposed of fairly are most significant in the prevention of student unrest.

A. Prevention of Student Unrest

In preventing student unrest, the school district shall maintain open channels of communication between students, student council, the administration, guidance department, and parents.

1. Through representatives elected from each homeroom all students shall be represented on the high school Student Council. Council meetings shall be held during school hours, and the minutes of meetings shall be posted for all students.

2. A Student Liaison Committee, elected by the student body or by the Student Council, shall meet with the administration when either party deems necessary. Any topic involving the schools may be brought up for discussion.

3. Any student shall be privileged to discuss informally any topic or problem with any faculty member, principal, the superintendent, or any Board member. The administration and Board will honor requests for such discussion as soon as possible.

4. Members of the guidance staff will discuss individual problems with students, keeping all discussions confidential. Evening conferences with guidance counselors may be scheduled by parents.

5. The schools shall work actively with parents, seeking their advice and counsel, and explaining school objectives and programs through the medium of parent-teacher organizations, through newsletters, open houses, and individual conferences with parents. The open-door policy of the adminis-

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tration and Board also applies to parents and other citizens in the community.

B. Dealing with Threatened Disruptions and Disorders

In the event disruption of school is threatened, the administration is authorized and directed to proceed as follows:

1. Identify and recognize leaders of the dissenting group. This shall include leaders of participating groups, as well as the "organizing" group, and any spokesman for a group whether he is or is not a student or school-affiliated.

2. Determine the complaint. This will aid in determining the subsequent course of action. Accept any petition offered.

3. Open up discussion with the leaders, directing all other students to return to classes. Participants in the discussion may include school officials and student leaders and any outside spokesman for either party, including any representative either side feels would be helpful.

4. Direct that other students return to classes, announcing that any student who does not return to his scheduled class within a reasonable time will be considered a trespasser. If trespassing develops and persists, the administration is at liberty to take customary action pertaining to trespassing on school property. But police authority will be called and utilized to remove such trespassers only as a last resort or when persons and/or school property are in danger.

5. Listen and consider complaints and suggestions from dissenting groups. Make it clear that the administration cannot change the law, and that it cannot change Board policy without Board approval. The administration should assure the dissenting group that it will carry out the agreed-upon terms that administratively it is at liberty to change, and that the administration or the group can refer to the Board other points of dissention. Assure the leaders that no individual recriminations will take place, but that the administration will comply with the law in seeking prosecution for vandalism and/or hold individuals responsible for damages to school property.

6. Call on faculty members for assistance in reaching agreement with the dissenting group or groups. The demands of the specific situation will dictate individual roles.

7. Upon reaching agreement with the dissenters, call an information assembly for the school and explain terms of the agreement. Assure students that the agreed-upon terms will be acted upon.

SOURCE: Roxbury Township Public Schools, Succasunna, N.J.
DATE: 1971

EPS/NSBA File: JCEC

STUDENT DEMONSTRATIONS AND STRIKES
(Disruptions of the School)

To insure the orderly process of education and business affairs connected with the schools and the safety of persons and property, the Board directs that the procedures below be followed in case of any type of disruptive demonstration on school property or within school buildings.

This policy is not intended to discourage or prohibit the peaceful expression of opinions or ideas concerning the Red Bank Regional High School. However, since the Board is required by law to provide proper school facilities and to maintain an appropriate program of instruction, and is further required to bar any disruption of the schools or interference with their normal operation, the following steps shall be taken in the event of any disruption of the normal operations of the schools.

1. The disruption shall be immediately brought to the attention of the Superintendent or his representative by the administrative head of the school. The Superintendent shall have the authority at his discretion to alert the police authorities.

2. Students participating in a disruptive demonstration shall be directed by the building principal or his representative to go to their regular classroom assignment. At the same time, the principal or his representative will arrange for a meeting between the administration and the individuals, leaders of a group, or the group, if feasible, to discuss in a rational, orderly manner the problem which has caused the disorder.

3. Nonstudent demonstrators and other unauthorized persons will be directed by the building principal or his representative to remove themselves from school property forthwith.

4. In the event steps 2 and/or 3 fail to stop the demonstration, the Superintendent or his representative will ask the police to remove the demonstrators and any individuals failing to comply under step 3.

5. When necessary for their safety, students and staff may be directed to leave the building and school property.

6. At no time, while any demonstration is in process, is the Superintendent or any school or Board personnel to enter into negotiations on the issues with the protestors either orally or in written form.

7. As soon as normal educational and business processes can be resumed, the Superintendent shall be charged with establishing

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communications with the leaders of the protesting group in order to resolve their requests or to refer them to the Board in an orderly manner.

8. Students and/or employees participating in a disruptive demonstration on school grounds will be subject to suspension.

SOURCE: Red Bank Regional School District, Red Bank, N.J.
DATE: 8/19/70

STUDENT RIGHTS AND RESPONSIBILITIES
(Background Reading for Policy Draft Writers)

Academic Freedom in the Secondary Schools
A basic reference on the relationship of the Bill of Rights to the student's life in school. Available from American Civil Liberties Union, 22 East 40th St., New York, N.Y. 10016. 1968. Price: 25¢.

Code of Student Rights and Responsibilities
A Task Force report with specific policy recommendations. Available from the National Education Association, 1201 16th St., N.W., Washington, D.C. 20036. 1971. Price: $1.50.

Dissent and Disruption in the Schools
A handbook for school administrators. Available from the Institute for the Development of Educational Activities, Box 446, Melbourne, Fla. 32901. 1969. Price: $1.00.

Legal Aspects of Control of Student Activities by Public School Authorities
by E. Edmund Reutter, Jr.
Excellent and highly readable review of court cases affecting student rights. Available from the National Organization on Legal Problems of Education, 825 Western Ave., Topeka, Kansas 66606. 1970. Price: $3.50.

Student Rights and Responsibilities: Courts Force Schools to Change
An overview of what schools are doing together with helpful exhibits. Available from the National School Public Relations Association, 1801 N. Moore St., Arlington, Va. 22209. 1972. Price: $4.00.

Student Unrest: Threat or Promise. Edited by Richard L. Hart and J. Galen Saylor
A book of readings with emphasis on educational and curricular implications of student rights movement. Available from the Association of Supervision and Curriculum Development, 1201 16th St., N.W., Washington, D.C. 20036. 1970. Price: $2.50.

The Reasonable Exercise of Authority by Robert L. Ackerly
Policy guidelines on freedom of expression, personal appearance, behavior codes, student property, extracurricular activities, discipline, student government, student press, right to petition, and drugs. Available from National Association of Secondary School Principals, 1201 16th St., N.W. Washington, D.C. 20036. 1969. Price: $1.00.

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